U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 26 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The director denied the application because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant submits a statement and photocopies of documents previously submitted for incorporation into the record.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS only if such alien establishes that he or she:

(a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;

(b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;

(c) Has continuously resided in the United States since such date as the Attorney General may designate;

(d) Is admissible as an immigrant except as provided under section 244.3;

(e) Is not ineligible under 8 C.F.R. § 244.4; and

(f) (1) Registers for TPS during the initial registration period announced by public notice in the FEDERAL REGISTER, or

(2) During any subsequent extension of such designation if at the time of the initial registration period:

(i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;

(ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

(g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on June 27, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on December 4, 2003.

On appeal, the applicant claims she is eligible for late registration as the spouse of a Honduran national who has been granted TPS. She has submitted the following evidence in support of her claim:

1. a Form I-797C, acknowledging receipt of Form I-765, Application for Employment Authorization, from , on May 14, 2003;

2. an Employment Authorization Card valid from August 8, 2003 to January 5, 2005, indicating that Honduran national, has been granted TPS;

3. an Employment Authorization Card valid from July 6, 2002 to July 5, 2003, indicating that a Honduran national, has been granted TPS;

4. a Honduran "Certificacion de Acts de Matrimonio" with English translation indicating that a Honduran national, and a Honduran national, were married in San Lorenzo, Valle, Honduras, on May 11, 1996; and,

5. a Form I-797A approval notice valid from September 20, 1999 to July 5, 2000, indicating that has been granted TPS.

While the applicant has submitted evidence indicating tha as been granted TPS, the record does not contain sufficient evidence to establish that Mr. is, in fact, the applicant's husband. The Honduran "marriage certificate" submitted by the applicant is not supported by any other evidence to corroborate her claim that she is married to Mr. . The applicant's Honduran national identity document identifies her as not as The applicant has not submitted any documents that identify her as Therefore, it is concluded that the applicant has not sufficient evidence to establish that she is eligible for late registration as the spouse of a Honduran national who has been granted TPS. The applicant has not submitted any evidence to establish that she has met any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant did not enter the United States until December 15, 1999. When she entered the United States on that date, she was apprehended by United States Border Patrol Agents near Calexico, California. She was released on her own recognizance and allowed to proceed to her place of intended residence in Phoenix, Arizona, for institution of removal proceedings . The record contains a Notice to Appear and a Warrant for Arrest of Alien, both issued on December 16, 1999, by the Assistant Chief Patrol Agent in El Centro, California. It is noted that, although removal proceedings do not appear to have been instituted against the applicant, the Warrant and the Notice to Appear are still outstanding. Since the applicant did not enter the United States until December 15, 1999, she cannot establish continuous residence in the United States since December 30, 1998, or continuous physical presence in the United States since January 5, 1999. She is, therefore, statutorily ineligible for TPS, and the application also may not be approved for these reasons.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.